

**AFFIDAVIT OF DAN PERKINS IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTIVE RELIEF**

I, Dan Perkins, affirm state and declare under penalty of perjury of the laws of the State of Utah as follows:

1. I am over the age of eighteen and not a party to this action.
2. I have known plaintiff Walter L. Wagner since circa 1991, and I have worked professionally on numerous projects with him, including but not limited to the 2010 US Census; 2009, 2010 and 2011 CMS Medicare Insurance; numerous Oil & Gas drilling ventures; and the World Botanical Gardens that he founded.

Fraudulent Indictment

3. I began working with plaintiff on the World Botanical Gardens in late 1995, about one year after he founded the project along with Cal Andrus, and am intimately familiar with the facts herein. My role was primarily to locate investors for the project, and assist them in investing.
4. In that capacity, I assisted defendant Kenneth Francik in becoming an investor in WBGI circa 1999.
5. Walter Wagner was the President and Founder of WBGI, and retained that capacity as President until September 2, 2004. His wife was the Secretary/Treasurer of WBGI, also until September 2, 2004. On September 2, 2004 defendant Francik telephoned me and we conducted a WBG Board Meeting (he had been appointed to the Board several months earlier) with the

two of us and the other board members on a joint conference call, excluding solely Walter Wagner who was not invited. At that telephone board meeting, we voted to remove the Wagners as the corporate officers, and replace them with defendant Francik and defendant Annette Emerson. Defendant Emerson was instructed to file the appropriate paperwork with the State of Nevada, which she did later that day.

6. I am familiar with the fact that defendant Francik appeared before the Hilo grand jury in February 2008 and gave testimony, in that I have read the transcript of that testimony. The gist of his testimony was that the Wagners were not WBGI officers on January 1, 2004 when they signed a WBGI promissory note as WBGI officers, having purportedly been replaced in 2003 as the WBGI officers by defendants Emerson and Francik and that accordingly they engaged in "attempted theft" and "identity theft". His testimony was a complete lie.

7. It was well known to defendant Francik that the board voted to remove the Wagners as the WBGI corporate officers in September 2004 some eight months after they signed that promissory note, NOT in 2003 before they signed that promissory note. This effort to backdate when defendants Francik and Emerson became WBGI officers by a full year, replacing the Wagners, was a complete fraud on the Hilo grand jury. Unfortunately, defendant Francik was the

only person to give testimony about that, and based on his lies they issued an indictment against the Wagners.

8. I am familiar with the subsequent use to which Francik put that fraudulently obtained indictment. I was also named as a defendant in that civil action that Francik initiated, via WBGI, against the Wagners, and the Wagners and I were scheduled to appear at a trial therein circa April 2008, some two months after that indictment was issued (February 2008). The Wagners had been allowed to remain free at pre-trial hearings by the trial court judge (who had issued a warrant the following day, based on that indictment), but when they appeared at the "trial", the judge in collusion with defendant Francik had the Wagners arrested. I was not present at the "trial", as I had expected that the Wagners would provide evidence and testimony in opposition to the fraudulent civil charges lodged against us, but that did not happen because the Wagners were instead at the jailhouse. I know these facts because I have read the sworn testimonies of the Wagners pertaining to them. Because the Wagners could not give evidence and testimony in opposition to the fraudulent testimonies of Kenneth Francik and Annette Emerson who were present at the "trial", a judgment was issued against them and me. When those facts were subsequently presented to that judge, he nonetheless denied a new trial. That civil case judgment is currently pending before the Hawaii appellate system.

9. I am also familiar with the fact that one or more defendants placed that fraudulently obtained "indictment" on the WBGI webpage for shareholders, which I saw when I accessed that webpage, and that that document was present until at least about the time of the filing of the complaint in this matter, more than one year after the "indictment" was dismissed.

10. Not only is that "indictment" a fraud, and falsely impugns the character of the Wagners, such documents have no valid basis for being on a business website as it does not pertain to the ongoing business of WBGI. It appears to have been placed there solely to malign the Wagners in an effort to wrongly convince the shareholders that the defendants are properly exercising control of the corporation, when in fact their 'control' has been disastrous to the shareholders.

Theft of Visitor Center Monies

11. I am familiar with the facts surrounding the theft of the Visitor Center monies. I was assisting WBGI in raising those funds that were to be dedicated for construction of a Visitor Center, and had spoken with all of those investors at one time or another. I was informed that approximately \$220,000 was placed into a dedicated Visitor Center account in 2004 from our existing investors. Unlike other monies I raised from new investors, for which I was paid a small

commission, I was paid no commission on those monies that came from existing investors.

12. In 2005, one of the WBGI shareholders, Mr. Ron Tolman, became concerned about the illegalities of Kenneth Francik, and sought to correct that situation. He and Kenneth Francik, in conjunction with defendant Preston Michie, subsequently signed in 2005 an agreement that no WBGI monies would be used for litigation of their disagreements. I have been informed and believe, and on such information and belief allege, that shortly after signing that agreement defendant Francik and others began stealing the Visitor Center funds, which they then used for litigation against the Wagners, Mr. Tolman, myself and others, including the litigation resulting in the phony "trial" of 2008 in which defendant Francik had the Wagners illegally arrested based on his phony "indictment".

13. At no time did Walter Wagner have control over those Visitor Center funds, but instead the board and officers had control over those funds, which WBGI officers at that time were defendants Francik and Emerson. I resigned that board in January 2005 when I learned of defendant Francik's illegal activities, and at that time the Visitor Center funds were intact. Defendants Francik, Michie, and Emerson remained on that board when I resigned.

14. I have read the email exchange between Louis Pratt and defendant Preston Michie. In that exchange, defendant Michie asserts to Mr. Pratt that there was never a Visitor Center account and that the 'reason' the Visitor Center was not built was because plaintiff Wagner had stolen the Visitor Center monies. That is a complete lie. There was indeed a dedicated Visitor Center account with about \$220,000 in it when I was on the board in January 2005 some five months after the Wagners were removed as corporate officers. The fact is those monies were stolen sometime after I quit that board, and NOT by the Wagners who had not been on the board for some time. That is the reason the Visitor Center was not built, not because plaintiff Wagner stole those Visitor Center monies as falsely claimed by defendant Michie, which he did not, but because one or more of the defendants herein stole those monies. Defendants are simply attempting to cover up that theft of Visitor Center monies by falsely blaming plaintiff Wagner for that theft, when they are the responsible (irresponsible?) parties.

Mismanagement of Corporate Database

15. I was kept apprised of the WBGI database of shareholders by plaintiff Wagner, and viewed the complete database from time to time. He was keeping good records. In January 2005 Mr. David Adams printed out the WBGI

corporate database, which I have seen, and it included two early shareholders, namely Cal Andrus and Milton Lunt.

16. I have read the email exchanges sent by defendant Steve Bryant in which he falsely claims that both Cal Andrus and Milton Lunt were not included in the WBGI database because of mismanagement on the part of plaintiff Wagner. In fact, the mismanagement is on the part of one or more defendants herein, as both of those shareholders were included in the database maintained by plaintiff Wagner through and until January 2005, but subsequently deleted from the database by one or more of the defendants.

17. This false blaming of plaintiff Wagner for the misdeeds of the defendants appears to be part of a systematic maligning of him for their own wrongdoings, and has no basis as a part of a legitimate business venture.

Conclusion

18. I will be available to provide oral testimony pertaining to these facts at the hearing of this motion. In my opinion, this Court should order the removal of all the fraudulently obtained 'legal documents' from the shareholder section of the WBGI website. These are extremely false and damaging to plaintiff, and have no rationale basis to be included on a business website. Further, because they have been posted for quite some time, this Court should likewise order the

placement of some type of 'corrective' that would serve as a notice to the WBGI shareholders that they have been deceived.

19. In my opinion, this Court should also conduct a hearing into the theft of the Visitor Center monies, and remove from WBGI management those parties found responsible.

DATED: November 7, 2011

A handwritten signature in black ink, reading "Dan Perkins", is written over a horizontal line.

Dan Perkins